IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.8172 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PACHAT VARG SEVA SANGH

Versus

MUNICIPAL CORPORATION OF AHMEDABAD

Appearance:

MR KETAN SHAH for MR TUSHAR MEHTA for Petitioner No. 1

MR PRASHANT G DESAI for Respondent Nos. 1-D, AGP for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 14/07/2004

ORAL JUDGEMENT

1. What is challenged in the present petition under Article 226 of the Constitution of India is for an appropriate writ, order or direction directing the respondents, their agents and servants to restore the residential premises and the goods lying therein to those persons in their families whose names are mentioned in the list at Annexure-A to the petition. It is also

prayed that to pay suitable amount for damage to the persons whose names are mentioned in the list at Annexure-A to the petition.

2. The persons whose names mentioned in the list (at Annexure-A) are in occupation and possession of the land which is a T.P. Road at Naranpura. The persons who are in occupation and possession of the land in question prior to 1976 are entitled to an alternative accommodation as per the policy of the Ahmedabad Municipal Corporation. Accordingly, there is a consensus between the parties and the learned advocates appearing on behalf of their respective parties, on instructions, requested to pass following order.

3. Mr.P.G.Desai, learned advocate appearing on behalf of the Ahmedabad Municipal Corporation, on instructions from his client, makes a statement that out of 22 + 14 persons, whose names have been mentioned in the list at Annexure-A to the petition, 13 persons are having cards to show that they were there prior to 1976. Therefore, they will be allotted an alternative place.

4. Mr.Ketan Shah, learned advocate appearing on behalf of the petitioner, states that so far as rest of the persons are concerned, one person, namely, Mithabhai Gandabhai Parmar, is having a slip issued by the Municipal Corporation to show that he was there prior to 1976. Mr.Shah also submitted that one another person at Sr. No.12, Gorabhai Muljibhai Solanki, is concerned, in view of the fact that at the relevant time when the photographs were taken he was not present. However, the Municipal Corporation has intimated him with regard to taking up the photograph and, therefore, it also suggests that the said Gorabhai Muljibhai Solanki was there in 1976.

4.1 So far as Vakhatben Jivanbhai Solanki, whose name is at Sr. No.17, is concerned, she / her husband is having a rent receipt which receipt shows that they were there prior to 1976 and/or in 1976.

5. Mr.Shah further states that rest of the persons are having some documentary evidence showing that they were residing there prior to 1976 and/or in 1976. Mr.Desai states that if a representation is made by the persons, who are having documentary evidences, more particularly, the government authenticated documents, such as electric bill, telephone bill and other documents to show that they were there prior to 1976, their case will be considered by the Municipal Corporation as per

the scheme of the Corporation.

6. At this stage, Mr.Shah states that an appropriate representation will be made by the persons other than aforesaid 13 persons who are having the cards, to the Municipal Corporation on or before 26-07-2004 along with the documentary evidence available with them and the government authenticated documents such as electric bill, telephone bill and other documents to show that they were their prior to 1976. As and when such a representation is made, the Corporation shall consider the same in accordance with the scheme of the Municipal Corporation within a period of 15 (fifteen) days thereafter. However, it is made clear between the parties that if no representation is made by any of the persons within the stipulated time, then the Municipal Corporation will be at liberty to demolish their construction and to remove them from the land in question. It is further made clear that the aforesaid 13 persons, who are having the cards, will be handed over the actual possession of the alternative site within a period of 01 (one) week from today and those persons may approach the Corporation for taking the possession of the land in question and after taking the possession of the alternative site, those 13 persons will vacate the premises / from the land in question, which is in their possession as on today, within a period of 02 (two) months from the handing over the possession to them on a condition that they will file an undertaking before this Court within a week from today that they will vacate the land which is in their occupation within the time stated hereinabove and, in the meantime, they will not transfer or alienate the land in any manner whatsoever. Copy of the said undertaking be given to the Corporation.

7. So far as the other persons are concerned, whose cases are required to be considered by the Municipal Corporation, as stated hereinabove, the Corporation shall consider the same in accordance with the scheme of the Municipal Corporation and if it is found that they are entitled for an alternative site, the Corporation shall inform those persons with regard to the alternative site. They will also be handed over peaceful and vacant possession of the land by the Municipal Corporation within 10 (ten) days with a prior intimation to them and they are also granted 02 (two) months time to shift on the similar undertaking as stated above.

8. With these observations and consensus between the parties and the aforesaid directions, the present petition is disposed of accordingly. Rule is made

absolute to the aforesaid extent. Interim relief, if any, stands vacated. Liberty to apply in case of difficulties.

Sd/-

[M.R.SHAH, J]

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'Bhavesh'